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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

17 CR 421 (GHW)

5 SADDAM MOHAMED RAISHANI,

6 Defendant.

7 -----x

8 New York, N.Y.

9 July 13, 2017

3:00 p.m.

10 Before:

11 HON. GREGORY H. WOODS,

12 District Judge

13 APPEARANCES

14 JOON H. KIM

15 Acting United States Attorney for the

16 Southern District of New York

17 GEORGE TURNER

JANE KIM

18 SID KAMARAJU

Assistant United States Attorneys

19 FEDERAL DEFENDERS OF NEW YORK

Attorneys for Defendant

20 SARAH BAUMGARTEL

SABRINA SHROFF

21 ALSO PRESENT: MARWAN ABDEL-RAHMAN, Arabic interpreter

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(In open court, case called)

MR. TURNER: Good afternoon, your Honor, George Turner, Jane Kim and Sid Kamaraju for the government.

THE COURT: Thank you very much. Good afternoon.

MS. BAUMGARTEL: Good afternoon, your Honor, Sarah Baumgartel and Sabrina Shroff of the Federal Defenders of New York on behalf of Saddam Raishani.

THE COURT: Thank you very much.

MS. BAUMGARTEL: And your Honor, I just would like to note a number of Mr. Raishani's family members are in the courtroom, including his wife, his son, his brother, his mother and his father. And with the Court's permission, they're receiving the assistance of an Arabic interpreter so they can follow these proceedings.

THE COURT: Thank you. Is Mr. Raishani using the services of the interpreter?

MS. BAUMGARTEL: No, your Honor.

THE COURT: Thank you. I'm going to allow this to proceed for this conference, but I'm going to direct you to the statutory provisions in our rules regarding the use of CJA interpretation services in instances where it's not for the benefit of the defendant or any witness. That said, I will allow it to proceed for purposes of this conference since this is already happening.

MS. SHROFF: Your Honor, may I address the Court for a

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1 brief second?

2 THE COURT: Yes, you may.

3 MS. SHROFF: Your Honor, the Federal Defenders of New
4 York paid for the interpreter to be here. He's not being paid
5 for by CJA funds or by the Court. I'm mindful of the statutory
6 obligations that are imposed upon our office, and Mr. Patton
7 allowed us to undertake this expense for Mr. Raishani's family.

8 THE COURT: Thank you for that clarification,
9 Ms. Shroff, I appreciate that.

10 Good. So I understand that Mr. Raishani has already
11 had his arraignment before the assigned magistrate judge.

12 This is an initial conference for the case. There are
13 a number of things that I want to do during this conference.
14 First, I expect to ask the United States to tell me more about
15 the nature of the case itself. I read the complaint and the
16 indictment, still it's useful for me to hear more about the
17 facts of the case. I also expect to ask the United States
18 about what the discovery is in the case and the time frame for
19 them to present it to the defendant and his counsel. And from
20 that point what I hope to do is to discuss what the process
21 will be for the litigation of this case going forward, and I
22 hope to set a schedule for next steps with the feedback of
23 counsel from both sides.

24 So with that introduction, let me turn first to the
25 United States. Can you please describe the nature of the case.

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1 MR. TURNER: Yes, your Honor. The defendant, as the
2 Court aware, is charged in a one-count indictment under 18 USC
3 Section 2339(b) with attempting to provide material support to
4 ISIS, a designated foreign terrorist organization. The
5 defendant was arrested on June 21st at JFK Airport as he
6 attempted to fly to Turkey for the purpose of ultimately
7 joining the Islamic State or ISIS in Syria.

8 And as set forth in the complaint, prior to
9 defendant's arrest he participated in a series of recorded
10 meetings and other communications with a confidential source
11 working at the direction of the FBI and the NYPD, as well as
12 two undercover law enforcement officers. And during the course
13 of those recorded meetings and communications, the defendant,
14 among other things, expressed his allegiance and support for
15 ISIS as well as his aspiration and plans for traveling overseas
16 to join ISIS and serve its cause. Prior to his arrest at JFK
17 and leading up to the date of his attempted travel, the
18 defendant quit his job, paid off debts, sold his car, and also
19 wrote a farewell letter to family members.

20 That, in broad strokes, your Honor is a summary of the
21 facts here. I'm happy to address discovery if that would make
22 sense, your Honor.

23 THE COURT: Thank you. Before you do, let me ask at
24 this point: Counsel, do you anticipate filing any superseding
25 indictments or adding defendants or charges in this case?

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1 MR. TURNER: Your Honor, the investigation in this
2 matter is ongoing and additional grand jury proceedings are
3 possible in this case, your Honor. The government is in the
4 process of determining whether to seek a superseding indictment
5 with additional charges against the defendant.

6 THE COURT: Thank you. For my education, the
7 complaint describes assertions that the defendant worked to
8 help a "friend" travel to join ISIS. Is his assistance of that
9 friend an aspect of the case in chief against the defendant?
10 You did not mention it during your statement.

11 MR. TURNER: During the meetings and the conversations
12 with the confidential source and the undercover law enforcement
13 officers the defendant did describe having assisted another
14 individual to travel overseas to join ISIS. That is both part,
15 at this point of the -- it is direct proof of the charges in
16 the indictment and it is also part of the ongoing
17 investigation.

18 THE COURT: Thank you. Counsel, could I ask you to
19 please describe what the discovery will consist of in this case
20 and your expectations regarding timeline for its production to
21 defendant and his counsel.

22 MR. TURNER: Yes, Judge. The categories of discovery
23 in this case include audio and video recordings of the meetings
24 with the confidential source as well as an undercover NYPD
25 detective. Discovery would also include screen shots of a

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1 laptop computer that was used by the defendant during certain
2 of those meetings to download and view ISIS related materials.
3 Discovery would include electronic messaging exchanges between
4 the defendant and an undercover law enforcement officer.

5 Discovery also would include returns from multiple
6 search warrants that were executed in this case. Your Honor,
7 search warrants were issued and executed on the defendant's
8 residence and garage. A search warrant was also issued for the
9 luggage that the defendant had with him as he attempted to
10 travel to join ISIS, and there were also email and social media
11 search warrants in this case, Judge.

12 Discovery would include travel records, including
13 records relating to the defendant's purchase of a ticket
14 departing the U.S. on June 21st, surveillance footage,
15 including the defendant seeking to obtain supplies in advance
16 of his travel overseas from stores and the like, as well as
17 subpoena returns relating to phone records, email, social media
18 and the like.

19 I should also note, your Honor, that the iPhone that
20 was on the defendant's person and seized at the time of his
21 arrest was also the subject of a search warrant that was issued
22 in this case.

23 THE COURT: Thank you very much. What's your
24 expectation regarding the time frame in which the United States
25 can produce that discovery to the defendant?

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1 MR. TURNER: Your Honor, the government made an
2 initial rolling -- well, its first rolling production shortly
3 before today's conference to the defense. That initial
4 production consists of materials such as arrest-related
5 documents and reports, as well as various subpoena returns,
6 including phone, email, and social media records.

7 The government, subject to the entry of an appropriate
8 protective order, which is something that perhaps we can
9 address in a moment, the government will be prepared to make a
10 substantial production next week to the defense. And at this
11 point, your Honor, the government expects to be able to
12 complete its rolling productions of existing Rule 16 materials
13 over the next month or 30 days.

14 THE COURT: Thank you. Understood.

15 MR. TURNER: Quickly, if I may, your Honor.

16 THE COURT: Proceed.

17 MR. TURNER: With respect to the protective order, the
18 parties have been in discussions this week regarding a
19 protective order. It was provided to the defense earlier this
20 week. They have provided some modifications earlier today. We
21 are in the process of discussing that, and would certainly hope
22 to get that order to your Honor as soon as possible.

23 THE COURT: Good. Thank you. Please submit it to me
24 under cover of letter stating the positions of each of the
25 parties and attaching the proposed protective order and I will

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1 take prompt action with respect to it.

2 Let me turn to counsel for the defendant. Counsel,
3 having heard the United States' expectations regarding the
4 completion of production of discovery, can you tell me what
5 your view is regarding appropriate next steps in the case?

6 MS. BAUMGARTEL: Thank you, your Honor. I think it
7 would make sense to give us some opportunity to review the
8 discovery and then to return to court to set a motion schedule
9 at that time. It sounds as if the discovery will be fairly
10 voluminous. I understand that we should expect to receive much
11 of it by next week. I think it will take us some time to
12 review it and confer with Mr. Raishani. So that's how we would
13 ask the Court to proceed.

14 THE COURT: Thank you. Assuming that the United
15 States completes its production of discovery within a month
16 from today, as just proffered, how much time would the
17 defendant like to have before we come back for another
18 conference for the purposes that you describe?

19 MS. BAUMGARTEL: One moment, please, your Honor.

20 THE COURT: Thank you.

21 (Pause)

22 MS. BAUMGARTEL: Your Honor, so I ask to come back in
23 approximately 60 days, and also, in order to facilitate this,
24 if the government is able to provide a copy of the discovery
25 that Mr. Raishani could access at the MCC.

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1 THE COURT: Thank you. United States, are you able to
2 produce a disk or some other formatted set of materials that he
3 can access at the MCC?

4 MR. TURNER: Yes, your Honor.

5 THE COURT: Good. Thank you. I'm happy to consider
6 the request by defendant, but I would first like to hear the
7 position of the United States. What's your view regarding that
8 request?

9 MR. TURNER: With respect to coming back before your
10 Honor in approximately 60 days?

11 THE COURT: Yes.

12 MR. TURNER: The government has no objection to that,
13 your Honor.

14 THE COURT: Good. I'm happy to accept the request.
15 Mr. Daniels, please propose a date.

16 DEPUTY CLERK: Thursday, September 14, at 10:00 a.m.

17 THE COURT: Counsel, does that date and time work for
18 each of you?

19 MR. TURNER: Yes, your Honor.

20 MS. BAUMGARTEL: Yes.

21 THE COURT: Good. So we'll have our next conference
22 in this matter on September 14, 2017 --

23 MS. SHROFF: Your Honor, could I have a second?

24 THE COURT: Please, take your time, Ms. Shroff.

25 (Pause)

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1 MS. SHROFF: That's fine.

2 THE COURT: Thank you. So we'll set a date of
3 September 14, 2017, for our next conference. At that time I
4 hope that counsel for Mr. Raishani will be prepared to tell me
5 what, if any, motions he is contemplating. We'll then set a
6 motion schedule, hearing schedule if necessary, and possibly a
7 trial date. If between now and that date the parties believe
8 that an extension of that date is warranted, please write me
9 jointly in advance of that date to let me know.

10 Is there anything else that we should talk about
11 beyond the speedy trial clock at this time? Counsel, for the
12 United States?

13 MR. TURNER: Not from the government, your Honor.

14 THE COURT: Counsel for Mr. Raishani?

15 MS. BAUMGARTEL: No.

16 THE COURT: Thank you very much. First, United
17 States, can you tell me what the status of the speedy trial
18 clock is at this time?

19 MR. TURNER: Yes, your Honor, the defendant was
20 indicted on June 29. As the Court is aware, the Court signed a
21 request with the defendant's consent excluding time beginning
22 on July 10 through today's date. By our calculations, that
23 would take ten days off the speedy trial clock, leaving at this
24 point 60 days on the speedy trial clock, your Honor.

25 THE COURT: Thank you. Does the United States have an

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1 application?

2 MR. TURNER: We do, your Honor. We would respectfully
3 request that the Court exclude time between today's date and
4 September 14, the date of the conference that has been
5 scheduled by the Court. We submit such an exclusion of time
6 would be in the interest of justice, as well as, among other
7 things, it will allow the government to continue preparing and
8 producing discovery and for the defense to review those
9 discovery materials and begin considering whether and what
10 motions could be filed in this case, Judge.

11 THE COURT: Thank you very much.

12 Counsel for Mr. Raishani?

13 MS. BAUMGARTEL: Your Honor, there's no objection
14 based on the voluminous nature of the discovery.

15 THE COURT: Thank you very much. I'm going to exclude
16 time from today until September 14, 2017. I find that the ends
17 of justice served by excluding such time outweigh the best
18 interest of the public and the defendant in a speedy trial
19 because it will allow time for the production of discovery and
20 review of those materials by the defendant and time for the
21 defendant to consider any potential motions as well.

22 Is there anything else that we should discuss before
23 we adjourn, United States?

24 MR. TURNER: Not from the government, Judge.

25 THE COURT: Counsel?

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1 MS. BAUMGARTEL: No, thank you.

2 THE COURT: Thank you very much. The proceeding is
3 adjourned.

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